

**LEGISLATIVE SERVICES AGENCY  
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**FISCAL IMPACT STATEMENT**

**LS 6621**

**BILL NUMBER:** HB 1071

**NOTE PREPARED:** Feb 5, 2004

**BILL AMENDED:** Jan 29, 2004

**SUBJECT:** Massage Regulation.

**FIRST AUTHOR:** Rep. Bischoff

**FIRST SPONSOR:**

**BILL STATUS:** As Passed House

**FUNDS AFFECTED:** X GENERAL  
DEDICATED  
FEDERAL

**IMPACT:** State & Local

**Summary of Legislation:** The bill establishes a Board of Massage Therapy to license massage therapists. It specifies licensure requirements and establishes guidelines for the licensing by endorsement of a massage therapist who holds a license in another state. The bill also establishes penalties for the unauthorized practice of massage therapy.

**Effective Date:** June 1, 2004; July 1, 2004.

**Explanation of State Expenditures:** This bill creates the five-member Board of Massage Therapy which would establish licensure requirements for massage therapists. The Health Professions Bureau (HPB) provides staff support for the health professions boards. Revenues from licensure are received by the state General Fund and expenditures are appropriated to HPB with augmentation from the state General Fund. Because the agency uses the same resources to support different boards and committees, it breaks down its expenditures by function rather than by board or committee. For this reason, the individual cost of any board or committee is indeterminable.

According to HPB, the common operating costs among the licensing boards include: board member per diem, travel expenses, printing, postage, supplies, telephone charges and personnel. Additional staff, such as a PAT II and Secretary III position may be required to provide support for a new board. Start-up costs for a new board may be greater than the annual operating costs once it is established.

On average for the past two biennia, biennial revenue from licensure and other fees such as internships, duplicate licenses, and examinations was approximately \$8.3 M, while the boards' and committees' direct and indirect expenditures were approximately \$3.6 M. Depending on revenue balances from licenses issued by all of HPB's boards, HPB could potentially absorb a portion of the operating expenses not covered by the

new board's licensing revenue.

The funds and resources required above could be supplied through a variety of sources, including the following: (1) existing staff and resources not currently being used to capacity; (2) existing staff and resources currently being used in another program; (3) authorized, but vacant, staff positions, including those positions that would need to be reclassified; (4) funds that, otherwise, would be reverted; or (5) new appropriations. As of October 2, 2003, HPB employed 56 authorized full-time staff members and had 2 vacancies (COMOT 3 and PAT1 positions). Ultimately, the source of funds and resources required to satisfy the requirements of this bill will depend upon legislative and administrative actions.

The bill requires the Board to adopt a licensing exam or approve an examination other than the National Certification Exam for Therapeutic Massage and Bodywork to provide to an applicant for licensure as a massage therapist. If the Board develops an examination for massage therapy licensure, additional expenses could occur.

**Explanation of State Revenues:** (Revised) This bill would establish licensure of massage therapists. Data acquired from the National Certification Exam for Therapeutic Massage and Bodywork (NCETMB) indicates that 473 practicing massage therapists are currently accredited by the NCBTMB in Indiana. The amount of revenue potentially generated from issuing a new license is dependent on the number of professional massage therapist applicants. All revenue collected from fees from the licensure of massage therapists would be collected and accounted for by the HPB and deposited in the state General Fund.

The bill allows the Board to issue a license to any applicant that enrolled in, before March 1, 2004, (and completes before January 1, 2005) a 500-hour massage therapy school or program that was in good standing with any state, regional, or national government that regulates massage therapy or programs. Massage therapists attending or finishing an out-of-state recognized school or program within the above time limits would be able to more easily receive a license to practice massage therapy in Indiana. A license may also be issued by endorsement when certain requirements are met, including paying a fee determined by the Board. Any impact to fees collected would be determined by the number of massage therapists choosing to apply for licensure in Indiana that qualify under this provision.

The bill also allows the Board to impose a civil penalty up to \$5,000 on any person who: practices, or offers or attempts to practice, massage therapy without being licensed; or aids or employs a person not authorized to use the professional title. This penalty is in addition to any other penalty provided for by law.

*Penalty Provision* - Violations of the licensure provisions would constitute a Class C misdemeanor. If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class C misdemeanor is \$500. Criminal fines are deposited in the Common School Fund. If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

**Explanation of Local Expenditures:** *Penalty Provision* - A Class C misdemeanor is punishable by up to 60 days in jail. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44.

**Explanation of Local Revenues:** The bill repeals the fee involved for the required fingerprinting of massage therapists. Local law enforcement units were involved with fingerprinting and fee collection. Localities would lose revenue as a result of the removal of the fee, but would have a corresponding reduction in expenditures.

This bill also provides that state law relating to massage therapy supercedes an ordinance or regulation adopted by a municipality or county related to the licensing or registration of massage therapists. However, state law does not affect local regulation relating to occupational license fees adopted by a municipality or county pertaining to massage therapists.

*Penalty Provision* - If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. (2) A \$3 fee would be assessed and, if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed and, if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

**State Agencies Affected:** Health Professions Bureau.

**Local Agencies Affected:** Trial courts, local law enforcement agencies.

**Information Sources:** National Certification Exam for Therapeutic Massage and Bodywork, [www.ncbtmb.com](http://www.ncbtmb.com); National Commission of Certifying Agencies.

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